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SUBJECT: MENAFATF PLENARY - MAY 2009

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Introduction and Summary  
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¶1. The Middle East and North Africa Financial Action Task Force (MENAFATF) held a plenary session (MENAFATF IX), and working group meetings from May 17-21, 2009 at the Crowne Plaza Hotel in Manama, Bahrain. Treasury Deputy Assistant Secretary for Terrorist Financing and Financial Crimes Daniel Glaser headed the U.S. interagency delegation. The delegation included representatives of the Departments of the Treasury, State, and Justice.

¶2. During this Plenary, the MENAFATF adopted the mutual evaluation reports (MERS) of Egypt and Jordan and the follow-up reports of Mauritania, Bahrain, and Syria; adopted the budget for 2010; approved the proposal to establish a special account for training; approved the schedule for MENAFATF country mutual evaluations; approved the proposal to train assessors; agreed to discuss the automatic publication of mutual evaluation reports in the next Plenary; adopted the Technical Assistance and Typologies Working Group Reports, approved the MENAFATF Private Sector Dialogue (PSD) mechanism; approved the proposal to hold a Ministerial-level meeting; adopted the report on cooperation with the Council of Arab Interior Ministers; and, discussed training seminars and workshops to include enhancing the role of FIUs in the MENA region and holding a joint FATF-MENAFATF Plenary. (End introduction and summary.)

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Mutual Evaluation Reports  
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¶3. Mutual Evaluation of Egypt: The Plenary discussed and adopted the World Bank (WB)-drafted MER of Egypt. The evaluation was conducted using the FATF 2004 methodology and summarizes the AML/CFT measures in place in Egypt at the time of the on-site visit (October 2008). Egypt received a rating of either compliant (C) or largely compliant (LC) on 25 out of 49 Recommendations and received ratings of either partially compliant (PC) or non-compliant (N) on 23 of the Recommendations.

¶4. During the Plenary discussions, Egypt argued for upgrades on

-- Recommendations 2 (LC), 3 (PC -> LC), and 1 (PC): With regards to Recommendation 2, Egypt argued for an upgrade stating that its law in fact allows for the prosecution of legal persons. With regards to Recommendation 3, Egypt argued that its law allows for confiscation if a person gets

riminally prosecuted and presented examples to demonstrate effectiveness of the system. While the WB team agreed that Egypt's general framework is strong, the team argued that the number of cases that go to court for prosecution is disproportionate with the number of cases where funds and other items are confiscated. The WB stated that it gave Egypt a PC on Recommendation 3 based on the fact that the framework is not fully tested for effectiveness. Egypt argued that it did not think effectiveness could be assessed even that the law had only been in effect for about a year prior to the mutual evaluation on-site visit. The MENAFATF Plenary supported an upgrade from PC to LC on Recommendation 3. Recommendations 2 and 17 were not upgraded.

-- Special Recommendation IX (PC): Egypt argued that Article 12 of its AML law stipulates that travelers need to disclose and declare currency or other monetary instruments if they are carrying USD 10,000 or more. Egypt explained that should travelers fail to declare currency, customs authorities have the ability to seize currency and monetary instruments, in particular if they suspect money laundering or terrorist financing. The WB team responded by noting that its assessment was based on three issues of concern: 1) the declaration/disclosure system is intermittently implemented; 2) there is no evidence of suspicious declaration forms reporting from customs to the Egyptian FIU; and, 3) there is a lack of proper safeguards. The Plenary supported the assessment team and Egypt did not receive an upgrade on this recommendation.

-- Recommendation 39 (LC -> C): Egypt argued for an upgrade on Recommendation 39, stating that it has the legal basis for extradition of nationals and that it is outlined in the Egyptian constitution. The WB team stated that the basis for

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its grade was based on the fact that the team found that no citizen could be deported or prevented from returning to Egypt and that there is a low number of extradition cases related to money laundering and terrorist financing despite a high number of cases involving other crimes. Egypt presented a table indicating a clear legal basis for extradition of nationals and the WB team indicated that given the information put forth in the table, it was comfortable with an upgrade. The Plenary agreed to upgrade Egypt on Recommendation 39 from LC to C.

-- Recommendations 5 (PC), 6 (PC), 7 (PC), 8 (LC), 11 (PC), and SR VII (PC) and Recommendations 15 (PC), 23 (PC), 28 (LC), and 29 (PC): Egypt received grades on these recommendations based on the finding by the WB team that there are key weaknesses regarding enforceable implementing regulations for three institutions, Arab International Bank (AIB), Nasser Social Bank (NSB), and Central Bank of Egypt as a financial institution, which carry out banking activities although they are not supervised by the Central Bank of Egypt. These weaknesses are compounded by the fact that the FIU cannot enforce any obligatory measures over these three institutions. Egypt argued for upgrades on these recommendations stating that their requirements for customer due diligence apply generally to these banks and that there are punitive measures for noncompliance. Egypt also argued that because of these punitive measures, the FIU does indeed have supervisory authority over these institutions. The WB team explained that these financial institutions pose risk for financial crime and offered examples such as the fact that AIB advertises its bank secrecy, NSB offers no information on its balance sheets, and the Central Bank offers banking services to the Egyptian government lending it vulnerable to corruption. In addition, the team found no legal basis and a lack of effectiveness for requirements related to customer due diligence, PEPs, correspondent banking, new technologies, and unusual transactions. The MENAFATF Plenary supported the assessment team and Egypt did not receive an upgrade on these recommendations.

-- Recommendation 18 (PC -> LC): Egypt argued for an upgrade on Recommendation 18 stating that its law states that financial institutions are prohibited from having correspondent relationships with shell banks and that the three institutions mentioned above also follow this law and are subject to sanctions for noncompliance. The WB team explained that it did not find that the three banks are regulated on this issue and highlighted that these institutions have extensive correspondent bank relationships. Although the team is unsure of whether these relationships include shell banks, the team stated that it could not find a legal framework or enforceable regulations preventing the institutions from developing these relationships. The Plenary supported Egypt for an upgrade from PC to LC on this recommendation.

-- Recommendation 1 (LC): The IMF, in conjunction with the United States and the FATF, raised a concern with the team's assessment of Egypt's compliance with Recommendation 1. The IMF explained that Egypt's definition of the money laundering offense is not in line with the Palermo and Vienna conventions because the definition of money laundering crime in Egypt's law requires the purpose of concealment or disguise. The IMF explained that this requirement narrows the scope of money laundering offense and could contribute to low effectiveness. This presents a significant shortfall in Egypt's implementation of Recommendation 1 and the IMF recommended that at the least, the WB identify this problem and note it in the report, to which the WB team agreed. The WB team highlighted this deficiency and explained that if the text of the report is amended, it would have an effect on the rating. The Plenary chose not to downgrade Egypt on this recommendation and to leave the grade as it is.

15. Mutual Evaluation of Jordan: The Plenary discussed and adopted the MENAFATF-drafted MER of Jordan. The evaluation was conducted using the FATF 2004 Methodology and summarizes the AML/CFT measures in place in Jordan at the time of the on-site visit (July 6 ) 17, 2008). Jordan did not receive a favorable assessment overall. Jordan received a rating of either compliant (C) or largely compliant (LC) on just 12 out of 49 Recommendations and received ratings of either partially compliant (PC) or non-compliant (NC) on 36 of the Recommendations.

16. During the Plenary discussions, Jordan argued for upgrades

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on:

-- Recommendations 5 (PC), 10 (PC -> LC), 13 (PC): Jordan argued that its laws and authorities regarding anonymous accounts and customer identification measures are imposed by secondary legislation and not other enforceable means, as assessed by the team. Jordan's argument for supporting this statement is that its AML law gives authority to the Central Bank of Jordan to pass provisions and regulations related to AML/CFT controls and procedures. FATF's standard for these Recommendations 5, 10, and 13 requires that regulations regarding anonymous accounts, customer identification measures, record keeping, and suspicious transaction reporting be mandated by secondary legislation. While the MENAFATF team agreed that the Central Bank of Jordan is fully authorized to create measures, supervise institutions and sanction them, the regulations are neither mandatory nor enforceable, rendering them as other enforceable means rather than secondary legislation. The MENAFATF team also noted that regardless of the regulations falling under secondary legislation or other enforceable means, there are other significant shortcomings. The FATF representative explained that the methodology does define the distinction between primary/secondary legislation and other enforceable means. Both the FATF and the United States recommended that the procedure for obtaining the grades must follow the current methodology. The Plenary agreed to upgrade Jordan from PC to LC on Recommendation 10 because fewer deficiencies were found

in Recommendation 10 than Recommendations 5 and 13. Jordan did not receive an upgrade on Recommendations 5 and 13.

-- Recommendation 1 (PC): Jordan argued that the reason the conviction for the predicate money laundering offense is required to prove that funds are illicit is in order to clarify a course of action for Jordan's law enforcement agencies. The MENAFATF team stated that this policy is not in line with the FATF standard and in addition, the money laundering crimes punishable by law neglect many categories of offenses, which should be considered predicate offenses for money laundering crime according to the methodology. The MENAFATF Plenary supported the assessment team and Jordan did not receive an upgrade on this recommendation.

-- Recommendation 25 (NC): Jordan argued its feedback mechanism is apparent by its electronic SAR system. Jordan explained that upon receiving a SAR, an automatic response is sent to the sender confirming receipt. The MENAFATF team explained that his form of feedback is not related to AML/CFT and that additionally, supervisory bodies in Jordan do not provide any guidance to financial institutions in this regard. The MENAFATF Plenary supported the assessment team and Jordan did not receive an upgrade on this recommendation.

-- Recommendation 26 (PC): Jordan argued that its FIU does not fall under the auspices of the Central Bank ) the Central Bank only allocates a budget for the FIU ) and the FIU has its independent bylaws. The MENAFATF team explained that during the on-site visit, the FIU could not state that it was entirely autonomous. The team also highlighted that regardless of this deficiency, the FIU's competence is limited to money laundering and does not include terrorist financing, and the FIU has insufficient financial, human, and technical resources. The MENAFATF Plenary supported the assessment team and Jordan did not receive an upgrade on this recommendation.

-- Recommendations 27 (PC) and 36 (PC): Jordan argued that if the public prosecutor in Jordan receives an international request for information, the public prosecutor replies with information immediately. The MENAFATF team explained that the grades were based on the lack of effectiveness of law enforcement agencies in Jordan and on the fact that the authorities of the public prosecutor are ambiguous and that the prosecutor does not seem autonomous or unbiased. The MENAFATF Plenary supported the assessment team and Jordan did not receive an upgrade on this recommendation.

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Follow-up Reports  
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17. Follow-up Report of Mauritania: The MENAFATF Secretariat explained that major gaps remain in Mauritania's AML/CFT regime since its ME in 2005, including: remaining deficiencies in Mauritania's implementation of its AML law; no guidance or clarification to sectors with regards to

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customer due diligence; DNFBPs largely not covered under AML/CFT regulations; no proper implementation of suspicious activity reporting; and, an FIU has not been established. Mauritania has tried to work on some aspects of its regime by working on legislation to create an FIU and having Central Bank examiners conduct on-site visits to financial institutions. Given the remaining deficiencies, it was decided that Mauritania would remain in the follow-up process and submit a report again in November 2009.

18. Mauritania explained that it criminalized money laundering and is working to criminalize terrorist financing. Mauritania also explained that it has worked on explaining due diligence and customer identification procedure requirements to financial institutions and has established a database to store SARs, among a few other enhancements.

Given the country's work-in-progress, Mauritania requested a delay of two years to submit another report. The Plenary supported the Secretariat's assessment and agreed that Mauritania should submit a report again in November 2009. The report was adopted.

¶9. Follow-up Report of Bahrain: The MENAFATF Secretariat explained that Bahrain has addressed many deficiencies identified in its ME. For example, Bahrain has criminalized terrorist financing and the act of terrorism finance. It has also amended its money laundering law to uphold the definition and scope of the FATF standard and established a declaration/disclosure mechanism for cross-border currency and monetary instruments. Given deficiencies that remain and the legislation needed to address those shortfalls, the MENAFATF Secretariat recommended Bahrain remain in the follow-up process and submit a report again in the fall of ¶2010. The Plenary agreed with the Secretariat's recommendation. The report was adopted.

¶10. Follow-up report of Syria: The MENAFATF Secretariat highlighted Syria's improvements in its AML/CFT regime including passing legislation that covers the banking and insurance sectors under its AML/CFT laws. For items in progress, the Secretariat noted that Syria has drafted legislation to monitor and regulate moneychangers and is working to implement a mechanism for disclosure and declaration of cross-border currency and monetary instruments. Given the deficiencies that remain, the Secretariat recommended Syria remain in the follow-up process and submit a report again this fall. The Plenary agreed with the Secretariat's recommendation. The report was adopted.

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Miscellaneous Items  
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¶11. Budget for 2010: The budget was agreed to, though several member countries expressed a desire to add a 5 percent reserve to the budget for incidentals or in the case that a member country is unable to fulfill its financial obligations. A paper on the proposal for a 5 percent surplus will be distributed to the member countries for written comments.

¶12. Proposal to Create a Separate Account for Training: The proposal to create a separate account for training was approved; however, details of how to fund the account will be decided at a later point.

¶13. Timeline of the Mutual Evaluation Process: The schedule of MENAFATF country mutual evaluations was approved. The ME of Algeria will take place in September/October 2009 and will be discussed at the April 2010 Plenary. The ME of Sudan has been postponed to June 2010. The MERS of Lebanon and Saudi Arabia will be discussed at the November 2010 Plenary.

¶14. Automatic Publication of Reports and Mutual Evaluation Working Group (MEWG): The Plenary adopted the practice of automatic publication of ME reports on the MENAFATF's website. The Plenary also adopted the Working Group proposal to enhance the quality of MENA assessment teams and an assessor's training will be held in Bahrain from June 28 ) July 2, 2009. Tunisia will host a MEWG meeting in July, the goal of which is to finalize the review of mutual evaluation procedures.

¶15. Technical Assistance & Typologies Working Group: The Technical Assistance and Typologies Framework Reports were adopted by the Plenary.

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¶16. Private Sector Dialogue Mechanism: The Plenary accepted the proposal to establish a MENAFATF Private Sector Dialogue (PSD). The format of the mechanism will be such that the

MENAFATF President and Executive Secretary will hold an informal direct dialogue with private sector representatives from MENAFATF Member countries. Plenary representatives of MENAFATF members and observers will not participate in this dialogue, the goals of which are to raise awareness and exchange ideas regarding AML/CFT issues of concern and implementation of AML/CFT controls.

¶17. Proposal to hold a Ministerial Meeting: It was agreed that the MENAFATF would organize a Ministerial meeting and would invite Ministers of MENAFATF member countries. The meeting will only take place if all the Ministers accept the invitation and agree to attend.

¶18. Cooperation with the Council of Arab Interior Ministers: The Plenary adopted the proposal to cooperate with the Council of Arab Interior Ministers.

¶19. Enhancing the Role of FIUs in the MENA Region: It was decided that the MENAFATF Secretariat would draft a paper on a proposal to establish a committee focused on enhancing the role of FIUs in the MENA region. This proposal will be discussed at the next Plenary.

¶20. Discussion to host a joint Plenary with the FATF: Member countries supported the idea of hosting a joint FATF-MENAFATF Plenary. The MENAFATF Secretariat is corresponding with the FATF Secretariat regarding this proposal.

¶21. The next MENAFATF Plenary meeting will be held the week of November 8-12, 2009 in Beirut, Lebanon.

¶22. Deputy Assistant Secretary for Treasury Terrorist Financing and Financial Crimes Daniel Glaser has cleared this message.

¶23. Tripoli minimize considered.

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